

Supplement
to the
California Special Education Programs
A Composite of Laws

Twenty-sixth Edition 2004

Incorporating the changes made by Assembly Bill 152 (Levine),
Chapter 161, Statutes of 2004

Effective: July 15, 2004

56000. The Legislature finds and declares all individuals with exceptional needs have a right to participate in free appropriate public education and special educational instruction and services for these persons are needed in order to ensure the right to an appropriate educational opportunity to meet their unique needs.

- Free Appropriate Public Education

It is the intent of the Legislature to unify and improve special education programs in California under the flexible program design of the Master Plan for Special Education. It is the further intent of the Legislature to ensure that all individuals with exceptional needs are provided their rights to appropriate programs and services which are designed to meet their unique needs under the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.).

- Unify and Improve Programs

- Ensure Rights to Appropriate Programs and Services

It is the further intent of the Legislature that this part does not abrogate any right provided to individuals with exceptional needs and their parents or guardians under the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.). It is also the intent of the Legislature that this part does not set a higher standard of educating individuals with exceptional needs than that established by Congress under the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.).

- Nothing Shall Be Construed to Abrogate Any Right

- Standard of Educating

It is the further intent of the Legislature that the Master Plan for Special Education provide an educational opportunity for individuals with exceptional needs that is equal to or better than that provided prior to the implementation of programs under this part, including, but not limited to, those provided to individuals previously served in a development center for handicapped pupils.

- Provide Educational Opportunity

It is the intent of the Legislature that the restructuring of special education programs as set forth in the Master Plan for Special Education be implemented in accordance with this part by all school districts and county offices.

- Restructuring of Special Education Programs

56032. "Individualized education program" means a written document described in Sections 56345 and 56345.1 for an individual with exceptional needs that is developed, reviewed, and revised in a meeting in accordance with Sections 300.340 to 300.350, inclusive, of Title 34 of the Code of Federal Regulations and this part. It also means "individualized family service plan" as described in Section 1436 of Title 20 of the United States Code if the individualized education program pertains to an individual with exceptional needs younger than three years of age.

- Definition of "Individualized Education Program"

56040. (a) Every individual with exceptional needs, who is eligible to receive educational instruction, related services, or both under this part shall receive educational instruction, services, or both, at no cost to his or her parents or, as appropriate, to him or her. A free appropriate public education shall be available to individuals with exceptional needs in accordance with paragraph

- Free Appropriate Educational Instruction and Services

(1) of subsection (a) of Section 1412 of Title 20 of the United States Code and Section 300.121 of Title 34 of the Code of Federal Regulations.

(b) An individual, aged 18 through 21, who, in the educational placement prior to his or her incarceration in an adult correctional facility was not identified as being an individual with exceptional needs or did not have an individualized education program under this part, is not entitled to a free appropriate public education pursuant to clause (ii) of subparagraph (B) of paragraph (1) of subsection (a) of Section 1412 of Title 20 of the United States Code.

- Exception to Free Appropriate Public Education

56043. The primary timelines affecting special education programs are as follows:

- Primary Timelines

(a) A proposed assessment plan shall be developed within 15 calendar days of referral for assessment, not counting calendar days between the pupil's regular school sessions or terms or calendar days of school vacation in excess of five schooldays from the date of receipt of the referral, unless the parent or guardian agrees, in writing, to an extension, pursuant to subdivision (a) of Section 56321.

- Proposed Assessment Plan

(b) A parent or guardian shall have at least 15 calendar days from the receipt of the proposed assessment plan to arrive at a decision, pursuant to subdivision (c) of Section 56321.

- Parent Arrives at a Decision

(c) A parent or guardian shall be notified of the individualized education program meeting early enough to ensure an opportunity to attend, pursuant to subdivision (b) of Section 56341.5.

- IEP Meeting Notification

(d) (1) An individualized education program required as a result of an assessment of a pupil shall be developed within a total time not to exceed 50 calendar days, not counting days between the pupil's regular school sessions, terms, or days of school vacation in excess of five schooldays, from the date of receipt of the parent's or guardian's written consent for assessment, unless the parent or guardian agrees, in writing, to an extension, pursuant to Section 56344.

- IEP Development

(2) A meeting to develop an initial individualized education program for the pupil shall be conducted within 30 days of a determination that the child needs special education and related services pursuant to paragraph (2) of subsection (b) of Section 300.343 of Title 34 of the Code of Federal Regulations and in accordance with Section 56344.

- Initial IEP

(e) Beginning at age 14, or younger, if determined by the individualized education program team pursuant to paragraph (1) of subsection (b) of Section 300.347 of Title 34 of the Code of Federal Regulations, a statement of the transition service needs of the pupil shall be included in the pupil's individualized education program, pursuant to subdivision (a) of Section 56345.1, and shall

- Statement of Transition Service Needs

be updated annually.

(f) Beginning at age 16 or younger, and annually thereafter, a statement of needed transition services shall be included in the pupil's individualized education program, pursuant to subdivision (b) of Section 56345.1.

(g) A pupil's individualized education program shall be implemented as soon as possible following the individualized education program meeting, pursuant to Section 3040 of Title 5 of the California Code of Regulations.

(h) An individualized education program team shall meet at least annually to review a pupil's progress, the individualized education program, including whether the annual goals for the pupil are being achieved, the appropriateness of the placement, and to make any necessary revisions, pursuant to subdivision (d) of Section 56343, subdivision (a) of Section 56380, and Section 3068 of Title 5 of the California Code of Regulations.

(i) A reassessment of a pupil shall be conducted at least once every three years or more frequently, if conditions warrant a reassessment and a new individualized education program to be developed, pursuant to Section 56381.

(j) A meeting of an individualized education program team requested by a parent or guardian to review an individualized education program pursuant to subdivision (c) of Section 56343 shall be held within 30 calendar days, not counting days between the pupil's regular school sessions, terms, or days of school vacation in excess of five schooldays, from the date of receipt of the parent's or guardian's written request, pursuant to Section 56343.5.

(k) The administrator of a local program under this part shall ensure that the pupil is immediately provided an interim placement for a period not to exceed 30 calendar days whenever a pupil transfers into a school district from a school district not operating programs under the same local plan in which he or she was last enrolled in a special education program pursuant to Section 56325.

(l) The parent or guardian shall have the right and opportunity to examine all school records of the child and to receive copies within five calendar days after a request is made by the parent or guardian, either orally or in writing, pursuant to Section 56504 and Chapter 6.5 (commencing with Section 49060) of Part 27.

(m) Upon receipt of a request from an educational agency where an individual with exceptional needs has enrolled, a former educational agency shall send the pupil's special education records, or a copy thereof, within five working days, pursuant to subdivision (a) of Section 3024 of Title 5 of the California Code of Regulations.

- Statement of Transition Services

- IEP Implementation

- Annual IEP Meeting

- Reassessment

- Request for Review of IEP

- Interim Placement upon Transfer

- Pupil Records

- Pupil Records; Former Educational Agency

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| <p>(n) The department shall do all of the following:</p> <p>(1) Have a time limit of 60 calendar days after a complaint is filed with the state education agency to investigate the complaint.</p> <p>(2) Give the complainant the opportunity to submit additional information about the allegations in the complaint.</p> <p>(3) Review all relevant information and make an independent determination as to whether there is a violation of a requirement of this part or Part B of the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.).</p> <p>(4) Issue a written decision, pursuant to Section 300.661 of Title 34 of the Code of Federal Regulations.</p> | <p>- Complaints</p> |
| <p>(o) A prehearing mediation conference shall be scheduled within 15 calendar days of receipt by the superintendent of the request for mediation, and shall be completed within 30 calendar days after the request for mediation, unless both parties to the prehearing mediation conference agree to extend the time for completing the mediation, pursuant to Section 56500.3.</p> | <p>- Prehearing Mediation Conference</p> |
| <p>(p) Any request for a due process hearing arising from subdivision (a) of Section 56501 shall be filed within three years from the date the party initiating the request knew or had reason to know of facts underlying the basis for the request, pursuant to subdivision (j) of Section 56505.</p> | <p>- Due Process Hearing Statute of Limitation</p> |
| <p>(q) The superintendent shall ensure that, within 45 calendar days after receipt of a written due process hearing request, the hearing is immediately commenced and completed, including any mediation requested at any point during the hearing process, and a final administrative decision is rendered, pursuant to subdivision (a) of Section 56502.</p> | <p>- Due Process Hearing Issues</p> |
| <p>(r) If either party to a due process hearing intends to be represented by an attorney in the due process hearing, notice of that intent shall be given to the other party at least 10 calendar days prior to the hearing, pursuant to subdivision (a) of Section 56507.</p> | <p>- Notice of Attorney Representative</p> |
| <p>(s) Any party to a due process hearing shall have the right to be informed by the other parties to the hearing, at least 10 calendar days prior to the hearing, as to what those parties believe are the issues to be decided at the hearing and their proposed resolution of those issues, pursuant to paragraph (6) of subdivision (e) of Section 56505.</p> | <p>- Due Process Hearing Issues</p> |
| <p>(t) Any party to a due process hearing shall have the right to receive from other parties to the hearing, at least five business days prior to the hearing, a copy of all documents, including all assessments completed and not completed by that date, and a list of all witnesses and their general area of testimony that the parties intend to present at the hearing, pursuant to paragraph (7) of subdivision (e) of Section 56505.</p> | <p>- Copy of Documents; List of Witnesses; General Area of Testimony</p> |

(u) An appeal of a due process hearing decision shall be made within 90 calendar days of receipt of the hearing decision, pursuant to subdivision (i) of Section 56505.

- Appeal of Due Process Hearing Decision

(v) When an individualized education program calls for a residential placement as a result of a review by an expanded individualized education program team, the individualized education program shall include a provision for a review, at least every six months, by the full individualized education program team of all of the following pursuant to paragraph (2) of subdivision (c) of Section 7572.5 of the Government Code:

- Residential Placement Review

(1) The case progress.

(2) The continuing need for out-of-home placement.

(3) The extent of compliance with the individualized education program.

(4) Progress toward alleviating the need for out-of-home care.

(w) No later than the pupil's 17th birthday, a statement shall be included in the pupil's individualized education program that the pupil has been informed of his or her rights that will transfer to the pupil upon reaching 18 years of age pursuant to Section 300.517 of Title 34 of the Code of Federal Regulations, Section 56041.5, and paragraph (8) of subdivision (a) of Section 56345.

- Pupil's Rights

56170. As used in this part, "private school children with disabilities" means children with disabilities enrolled by a parent in private schools or facilities, in accordance with Section 300.450 of Title 34 of the Code of Federal Regulations, other than individuals with exceptional needs placed by a district, special education local plan area, or county office in a nonpublic, nonsectarian school pursuant to Section 56365.

- Definition of "Private School Children with Disabilities"

56195.7. In addition to the provisions required to be included in the local plan pursuant to Chapter 3 (commencing with Section 56205), each special education local plan area that submits a local plan pursuant to subdivision (b) of Section 56195.1 and each county office that submits a local plan pursuant to subdivision (c) of Section 56195.1 shall develop written agreements to be entered into by entities participating in the plan. The agreements need not be submitted to the superintendent. These agreements shall include, but not be limited to, the following:

- Written Agreements

(a) A coordinated identification, referral, and placement system pursuant to Chapter 4 (commencing with Section 56300).

- Coordinate Identification, Referral, and Placement System

(b) Procedural safeguards pursuant to Chapter 5 (commencing with Section 56500).

- Procedural Safeguards

(c) Regionalized services to local programs, including, but not limited to, all of the following:

- Regionalized Services

(1) Program specialist service pursuant to Section 56368.

(2) Personnel development, including training for staff, parents, and members of the community advisory committee pursuant to

Article 3 (commencing with Section 56240).

(3) Evaluation pursuant to Chapter 6 (commencing with Section 56600).

(4) Data collection and development of management information systems.

(5) Curriculum development.

(6) Provision for ongoing review of programs conducted, and procedures utilized, under the local plan, and a mechanism for correcting any identified problem.

(d) A description of the process for coordinating services with other local public agencies that are funded to serve individuals with exceptional needs.

- Coordination with Local Public Agencies

(e) A description of the process for coordinating and providing services to individuals with exceptional needs placed in public hospitals, proprietary hospitals, and other residential medical facilities pursuant to Article 5.5 (commencing with Section 56167) of Chapter 2.

- Public/Proprietary Hospitals

(f) A description of the process for coordinating and providing services to individuals with exceptional needs placed in licensed children's institutions and foster family homes pursuant to Article 5 (commencing with Section 56155) of Chapter 2.

- Licensed Children's Institutions and Foster Family Homes

(g) A description of the process for coordinating and providing services to individuals with exceptional needs placed in juvenile court schools or county community schools pursuant to Section 56150.

- Juvenile Court Schools and County Community Schools

(h) A budget for special education and related services that shall be maintained by the special education local plan area and be open to the public covering the entities providing programs or services within the special education local plan area. The budget language shall be presented in a form that is understandable by the general public. For each local educational agency or other entity providing a program or service, the budget, at minimum, shall display the following:

- Budget for Special Education and Related Services

(1) Expenditures by object code and classification for the previous fiscal year and the budget by the same object code classification for the current fiscal year.

- Expenditures by Object Code and Classification

(2) The number and type of certificated instructional and support personnel, including the type of class setting to which they are assigned, if appropriate.

- Number and Type of Personnel/Class Setting

(3) The number of instructional aides and other qualified classified personnel.

- Number of Aides and Other Qualified Classified Personnel

(4) The number of enrolled individuals with exceptional needs receiving each type of service provided.

- Number of Enrolled Pupils Receiving Type of Service

(i) For multidistrict special education local plan areas, a description of the policymaking process that shall include a description of the local method used to distribute state and federal

- Description of Policymaking Process and Local Method Used to Distribute State/Federal Funds

funds among the local educational agencies in the special education local plan area. The local method to distribute funds shall be approved according to the policymaking process established consistent with subdivision (f) of Section 56001 and pursuant to paragraph (3) of subdivision (b) of Section 56205 or subdivision (c) of Section 56200, whichever is appropriate.

(j) (1) In accordance with Section 1413 of Title 20 of the United States Code, each single-district special education local plan area established pursuant to Section 56195.1 shall have a written procedure for the ongoing review of programs conducted, and procedures utilized pursuant to Section 56205, under the local plan as defined pursuant to Section 56027 and administered pursuant to Section 56195, and a mechanism for correcting any identified problem pursuant to paragraph (6) of subdivision (c).

- Written Procedure for Ongoing Review of Programs in Each Single-District SELPA

(2) Multidistrict special education local plan areas established pursuant to subdivision (b) of Section 56195.1 and a district or districts joined with the county office in accordance with subdivision (c) of Section 56195.1 shall have a written agreement entered into by entities participating in the local plan that includes a provision for ongoing review of programs conducted, and procedures utilized, under the local plan, and a mechanism for correcting any identified problem pursuant to paragraph (6) of subdivision (c).

- Written Agreement for Ongoing Review of Programs in Multidistrict SELPAs

(3) The written procedure referenced in paragraph (1) and the written agreement referenced in paragraph (2) need not be submitted to the superintendent but shall be available upon request by the department.

- Written Procedure/Agreement Shall Be Available to Department Upon Request

56301. (a) All individuals with disabilities residing in the state, including pupils with disabilities who are enrolled in elementary and secondary schools and private schools, including parochial schools, regardless of the severity of their disabilities, and who are in need of special education and related services, shall be identified, located, and assessed as required by paragraph (3) and clause (ii) of paragraph (10) of subsection (a) of Section 1412 of Title 20 of the United States Code.

- Continuous Child Find System

(b) In accordance with Section 300.125 of Title 34 of the Code of Federal Regulations, the requirements of this section also apply to highly mobile individuals with exceptional needs, such as migrant and homeless children, and children who are suspected of being an individual with exceptional needs pursuant to Section 56026 and in need of special education, even though they are advancing from grade to grade.

- Highly Mobile Individuals and Those Advancing from Grade to Grade

(c) Each special education local plan area shall establish written policies and procedures pursuant to Section 56205 for use by its constituent local agencies for a continuous child-find system that addresses the relationships among identification, screening,

- Written Policies and Procedures for Continuous Child Find System

referral, assessment, planning, implementation, review, and the triennial assessment. The policies and procedures shall include, but need not be limited to, written notification of all parents of their rights under this chapter, and the procedure for initiating a referral for assessment to identify individuals with exceptional needs. Parents shall be given a copy of their rights and procedural safeguards upon initial referral for assessment, upon notice of an individualized education program meeting or reassessment, upon filing a complaint, and upon filing for a prehearing mediation conference pursuant to Section 56500.3 or a due process hearing request pursuant to Section 56502.

(d) Child find data collected pursuant to this chapter, or collected pursuant to a regulation or an interagency agreement, are subject to the confidentiality requirements of Section 300.125 and Sections 300.560 to 300.577, inclusive, of Title 34 of the Code of Federal Regulations.

56320. Before any action is taken with respect to the initial placement of an individual with exceptional needs in special education instruction, an individual assessment of the pupil's educational needs shall be conducted, by qualified persons, in accordance with requirements including, but not limited to, all the following:

(a) Testing and assessment materials and procedures used for the purposes of assessment and placement of individuals with exceptional needs are selected and administered so as not to be racially, culturally, or sexually discriminatory.

(b) Tests and other assessment materials meet all the following requirements:

(1) Are provided and administered in the pupil's native language, pursuant to Section 300.19 of Title 34 of the Code of Federal Regulations, or other mode of communication, unless the assessment plan indicates reasons why this provision and administration are not clearly feasible.

(2) Have been validated for the specific purpose for which they are used.

(3) Are administered by trained personnel in conformance with the instructions provided by the producer of the tests and other assessment materials, except that individually administered tests of intellectual or emotional functioning shall be administered by a credentialed school psychologist.

(c) Tests and other assessment materials include those tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient.

(d) Tests are selected and administered to best ensure that when a test administered to a pupil with impaired sensory, manual, or

- Child Find Data Are Subject to Confidentiality Requirements

- Individual Assessment Conducted by Qualified Persons

- Testing and Assessment Materials

- Meet Requirements

- Provided in Native Language

- Validated for Specific Purposes

- Administered by Trained Personnel

- Assess Specific Areas of Need

- Accurate Test Results

speaking skills produces test results that accurately reflect the pupil's aptitude, achievement level, or any other factors the test purports to measure and not the pupil's impaired sensory, manual, or speaking skills unless those skills are the factors the test purports to measure.

(e) Pursuant to subsection (f) of Section 300.532 of Title 34 of the Code of Federal Regulations, no single procedure is used as the sole criterion for determining whether a pupil is an individual with exceptional needs and for determining an appropriate educational program for the pupil.

(f) The pupil is assessed in all areas related to the suspected disability including, if appropriate, health and development, vision, including low vision, hearing, motor abilities, language function, general intelligence, academic performance, communicative status, self-help, orientation and mobility skills, career and vocational abilities and interests, and social and emotional status. A developmental history is obtained, when appropriate. For pupils with residual vision, a low vision assessment shall be provided in accordance with guidelines established pursuant to Section 56136. In assessing each pupil under this article, the assessment shall be conducted in accordance with subsections (h), (i), and (j) of Section 300.532 of Title 34 of the Code of Federal Regulations.

(g) The assessment of a pupil, including the assessment of a pupil with a suspected low incidence disability, shall be conducted by persons knowledgeable of that disability. Special attention shall be given to the unique educational needs, including, but not limited to, skills and the need for specialized services, materials, and equipment consistent with guidelines established pursuant to Section 56136.

(h) As part of an initial assessment, if appropriate, and as part of any reassessment under Part B of the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) and this part, the group that includes members of the individualized education program team, and other qualified professionals, as appropriate, shall follow the procedures specified in subsection (a) of Section 300.533 of Title 34 of the Code of Federal Regulations. The group may conduct its review without a meeting.

56321. (a) If an assessment for the development or revision of the individualized education program is to be conducted, the parent or guardian of the pupil shall be given, in writing, a proposed assessment plan within 15 days of the referral for assessment not counting days between the pupil's regular school sessions or terms or days of school vacation in excess of five schooldays from the date of receipt of the referral, unless the parent or guardian agrees, in writing, to an extension. However,

- No Single Procedure Used

- Assessed in All Areas Related to Suspected Disability

- Assessment Conducted by Persons Knowledgeable of Disability

- Determination of Needed Assessment Data

- Proposed Assessment Plan

in any event, the assessment plan shall be developed within 10 days after the commencement of the subsequent regular school year or the pupil's regular school term as determined by each district's school calendar for each pupil for whom a referral has been made 10 days or less prior to the end of the regular school year. In the case of pupil school vacations, the 15-day time shall recommence on the date that the pupil's regular schooldays reconvene. A copy of the notice of a parent's or guardian's rights shall be attached to the assessment plan. A written explanation of all the procedural safeguards under the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 and following), and the rights and procedures contained in Chapter 5 (commencing with Section 56500), shall be included in the notice of a parent's or guardian's rights, including information on the procedures for requesting an informal meeting, prehearing mediation conference, mediation conference, or due process hearing; the timelines for completing each process; whether the process is optional; and the type of representative who may be invited to participate.

- Notice of Parent Rights

(b) The proposed assessment plan given to parents or guardians shall meet all the following requirements:

- Requirements

(1) Be in language easily understood by the general public.

(2) Be provided in the native language of the parent or guardian or other mode of communication used by the parent or guardian, unless to do so is clearly not feasible.

(3) Explain the types of assessments to be conducted.

(4) State that no individualized education program will result from the assessment without the consent of the parent.

(c) An assessment may not be conducted, unless the written consent of the parent or guardian is obtained prior to the assessment except pursuant to subdivision (e) of Section 56506. The parent or guardian shall have at least 15 days from the receipt of the proposed assessment plan to arrive at a decision. Assessment may begin immediately upon receipt of the consent.

- Written Consent of Parent

(d) Consent for initial assessment may not be construed as consent for initial placement or initial provision of special education and related services to an individual with exceptional needs, pursuant to paragraph (2) of subsection (a) of Section 300.505 of Title 34 of the Code of Federal Regulations.

- Consent for Initial Assessment Is Not Consent for Initial Placement or Provision of Special Education and Related Services

(e) In accordance with paragraph (3) of subsection (a) of Section 300.505 of Title 34 of the Code of Federal Regulations, parental consent is not required before reviewing existing data as part of an assessment or reassessment, or before administering a test or other assessment that is administered to all children, unless before administration of that test or assessment, consent is required of the parents of all the children.

- Exceptions for Parental Consent

56341.5. (a) Each district, special education local plan area, or county office convening a meeting of the individualized education program team shall take steps to ensure that no less than one of the parents or guardians of the individual with exceptional needs are present at each individualized education program meeting or are afforded the opportunity to participate.

- Parent Participation in IEP

(b) Parents or guardians shall be notified of the individualized education program meeting early enough to ensure an opportunity to attend.

- Notification of Parent

(c) The individualized education program meeting shall be scheduled at a mutually agreed upon time and place. The notice of the meeting under subdivision (b) shall indicate the purpose, time, and location of the meeting and who shall be in attendance. Parents or guardians shall also be informed in the notice of the right, pursuant to clause (ii) of paragraph (1) of subsection (b) of Section 300.345 of Title 34 of the Code of Federal Regulations, to bring other people to the meeting who have knowledge or special expertise regarding the individual with exceptional needs.

- IEP Meeting Scheduled at Mutually Agreed Upon Time and Place

(d) For an individual with exceptional needs beginning at age 14, or younger, if appropriate, the meeting notice shall also indicate that a purpose of the meeting will be the development of a statement of the transition services needs of the individual required by subdivision (a) of Section 56345.1 and indicate that the individual with exceptional needs is also invited to attend. In accordance with paragraph (3) of subsection (b) of Section 300.345 of the Code of Federal Regulations, for an individual with exceptional needs beginning at 16 years of age or younger, if appropriate, the meeting notice shall also indicate that a purpose of the meeting is the consideration of needed transition services for the individual required by subdivision (b) of Section 56345.1 and indicate that the individual with exceptional needs is invited to attend. If the pupil does not attend the individualized education program meeting, the district, special education local plan area, or county office shall take steps to ensure that the pupil's preferences and interests are considered in accordance with paragraph (2) of subsection (b) of Section 300.344 of Title 34 of the Code of Federal Regulations.

- Development of a Statement of Transition Services

(e) The meeting notice shall also identify any other local agency in accordance with paragraph (3) of subsection (b) of Section 300.344 of Title 34 of the Code of Federal Regulations.

- Representative of Other Local Agency

(f) If no parent or guardian can attend the meeting, the district, special education local plan area, or county office shall use other methods to ensure parent or guardian participation, including individual or conference telephone calls.

- If Neither Parent Can Attend

(g) A meeting may be conducted without a parent or guardian in attendance if the district, special education local plan area, or

- IEP Meeting Without a Parent in Attendance

county office is unable to convince the parent or guardian that he or she should attend. In this event, the district, special education local plan area, or county office shall maintain a record of its attempts to arrange a mutually agreed-upon time and place, as follows:

(1) Detailed records of telephone calls made or attempted and the results of those calls.

(2) Copies of correspondence sent to the parents or guardians and any responses received.

(3) Detailed records of visits made to the home or place of employment of the parent or guardian and the results of those visits.

(h) The district, special education local plan area, or county office shall take whatever action is necessary to ensure that the parent or guardian understands the proceedings at a meeting, including arranging for an interpreter for parents or guardians with deafness or whose native language is a language other than English.

- Ensure That the Parent Understands the Proceedings

(i) The district, special education local plan area, or county office shall give the parent or guardian a copy of the individualized education program, at no cost to the parent or guardian.

- Parent Shall Be Given Copy of IEP

56344. (a) An individualized education program required as a result of an assessment of a pupil shall be developed within a total time not to exceed 50 days, not counting days between the pupil's regular school sessions, terms, or days of school vacation in excess of five schooldays, from the date of receipt of the parent's written consent for assessment, unless the parent agrees, in writing, to an extension. However, an individualized education program required as a result of an assessment of a pupil shall be developed within 30 days after the commencement of the subsequent regular school year as determined by each district's school calendar for each pupil for whom a referral has been made 20 days or less prior to the end of the regular school year. In the case of pupil school vacations, the 50-day time shall recommence on the date that pupil schooldays reconvene. A meeting to develop an initial individualized education program for the pupil shall be conducted within 30 days of a determination that the pupil needs special education and related services pursuant to paragraph (2) of subsection (b) of Section 300.343 of Title 34 of the Code of Federal Regulations.

- IEP Development Timeline

(b) Each district, special education local plan area, or county office shall have an individualized education program in effect for each individual with exceptional needs within its jurisdiction at the beginning of each school year in accordance with subdivision (a) and pursuant to subsections (a) and (b) of Section 300.342 of

- IEP Shall Be In Effect at the Beginning of Each School Year

Title 34 of the Code of Federal Regulations.

56345. (a) The individualized education program is a written statement determined in a meeting of the individualized education program team and shall include, but not be limited to, all of the following:

(1) The present levels of the pupil's educational performance, including the following:

(A) For a schoolage child, how the pupil's disability affects the pupil's involvement and progress in the general curriculum.

(B) For a preschoolage child, as appropriate, how the disability affects the child's participation in appropriate activities.

(2) The measurable annual goals, including benchmarks or short-term objectives related to the following:

(A) Meeting the pupil's needs that result from the pupil's disability to enable the pupil to be involved in and progress in the general curriculum.

(B) Meeting each of the pupil's other educational needs that result from the pupil's disability.

(3) The specific special educational instruction and related services and supplementary aids and services to be provided to the pupil, or on behalf of the pupil, and a statement of the program modifications or supports for school personnel that will be provided for the pupil in order to do the following:

(A) To advance appropriately toward attaining the annual goals.

(B) To be involved and progress in the general curriculum in accordance with subparagraph (A) of paragraph (1) and to participate in extracurricular and other nonacademic activities.

(C) To be educated and participate with other pupils with disabilities and nondisabled pupils in the activities described in this section.

(4) An explanation of the extent, if any, to which the pupil will not participate with nondisabled pupils in regular classes and in the activities described in paragraph (3).

(5) The individual modifications in the administration of state or districtwide assessments of pupil achievement that are needed in order for the pupil to participate in the assessment. If the individualized education program team determines that the pupil will not participate in a particular state or districtwide assessment of pupil achievement (or part of an assessment), a statement of the following:

(A) Why that assessment is not appropriate for the pupil.

(B) How the pupil will be assessed.

(6) The projected date for the beginning of the services and modifications described in paragraph (3), and the anticipated frequency, location, and duration of those services and modifications included in the individualized education program.

- IEP Contents

- Levels of Pupil's Educational Performance

- Measurable Annual Goals

- Specific Special Educational Instruction, Related Services, Supplementary Aids and Services

- Explanation of Extent Pupil Will Not Participate

- Individual Modifications in the Administration of Statewide or Districtwide Assessments

- Projected Date for Beginning of Service and Modification; Anticipated Frequency, Location, and Duration of Services

(7) Appropriate objective criteria, evaluation procedures, and schedules for determining, on at least an annual basis, whether the annual goals are being achieved.

- Determining Whether Annual Goals Are Being Achieved

(8) Beginning at least one year before the pupil reaches the age of 18, a statement shall be included in the individualized education program that the pupil has been informed of his or her rights under this part, if any, that will transfer to the pupil upon reaching the age of 18 pursuant to Section 56041.5.

- Statement in IEP That Pupil Has Been Notified of the Upcoming Transfer of Rights

(9) A statement of how the pupil's progress toward the annual goals described in paragraph (2) will be measured.

- Statement of Pupil's Progress Toward Annual Goals

(10) A statement of how the pupil's parents or guardians will be regularly informed, at least as often as parents or guardians are informed of their nondisabled pupil's progress in the following:

- Statement of How Pupil's Parents Will Be Regularly Informed

(A) The pupil's progress toward the annual goals described in paragraph (2).

(B) The extent to which that progress is sufficient to enable the pupil to achieve the goals by the end of the year.

(b) If appropriate, the individualized education program shall also include, but not be limited to, all of the following:

- Appropriate Additional IEP Content

(1) For pupils in grades 7 to 12, inclusive, any alternative means and modes necessary for the pupil to complete the district's prescribed course of study and to meet or exceed proficiency standards for graduation.

- Prescribed Course of Study

(2) For individuals whose native language is other than English, linguistically appropriate goals, objectives, programs and services.

- Linguistic Goals

(3) Extended school year services when needed, as determined by the individualized education program team.

- Extended School Year Services

(4) Provision for the transition into the regular class program if the pupil is to be transferred from a special class or nonpublic, nonsectarian school into a regular class in a public school for any part of the schoolday, including the following:

- Transition Into Regular Program

(A) A description of activities provided to integrate the pupil into the regular education program. The description shall indicate the nature of each activity, and the time spent on the activity each day or week.

(B) A description of the activities provided to support the transition of pupils from the special education program into the regular education program.

(5) For pupils with low-incidence disabilities, specialized services, materials, and equipment, consistent with guidelines established pursuant to Section 56136.

- Specialized Services, Materials, and Equipment

(c) It is the intent of the Legislature in requiring individualized education programs, that the local educational agency is responsible for providing the services delineated in the individualized education program. However, the Legislature

- Responsibility for Providing Service

recognizes that some pupils may not meet or exceed the growth projected in the annual goals and objectives of the pupil's individualized education program. Pursuant to paragraph (2) of subsection (a) of Section 300.350 of Title 34 of the Code of Federal Regulations, public education agencies shall make a good faith effort to assist each individual with exceptional needs to achieve the goals and objectives or benchmarks listed in the individualized education program of the pupil.

(d) Consistent with Section 56000.5 and clause (iv) of subparagraph (B) of paragraph (3) of subsection (d) of Section 1414 of Title 20 of the United States Code, it is the intent of the Legislature that, in making a determination of what constitutes an appropriate education to meet the unique needs of a deaf or hard-of-hearing pupil in the least restrictive environment, the individualized education program team shall consider the related services and program options that provide the pupil with an equal opportunity for communication access. The individualized education program team shall specifically discuss the communication needs of the pupil, consistent with the guidelines adopted pursuant to Section 56136 and Page 49274 of Volume 57 of the Federal Register, including all of the following:

(1) The pupil's primary language mode and language, which may include the use of spoken language with or without visual cues, or the use of sign language, or a combination of both.

(2) The availability of a sufficient number of age, cognitive, and language peers of similar abilities which may be met by consolidating services into a local plan areawide program or providing placement pursuant to Section 56361.

(3) Appropriate, direct, and ongoing language access to special education teachers and other specialists who are proficient in the pupil's primary language mode and language consistent with existing law regarding teacher training requirements.

(4) Services necessary to ensure communication-accessible academic instructions, school services, and extracurricular activities consistent with the Vocational Rehabilitation Act of 1973 as set forth in Section 794 of Title 29 of the United States Code and the Americans with Disabilities Act of 1990 as set forth in Section 12101, and following, of Title 42 of the United States Code.

(e) General Fund money made available to school districts or local agencies may not be used for any additional responsibilities and services associated with paragraphs (1) and (2) of subdivision (d), including the training of special education teachers and other specialists, even if those additional responsibilities or services are required pursuant to a judicial or state agency determination. Those responsibilities and services shall only be funded by a local

- Communication Access for Deaf and Hard-of-Hearing Pupils

- Restriction on the Use of Funds

educational agency as follows:

(1) The costs of those activities shall be funded from existing programs and funding sources.

(2) Those activities shall be supported by the resources otherwise made available to those programs.

(3) Those activities shall be consistent with Sections 56240 to 56243, inclusive.

(f) It is the intent of the Legislature that the communication skills of teachers who work with hard-of-hearing and deaf children be improved. This section does not remove the local educational agency's discretionary authority in regard to in-service activities.

- Communication Skills of Teachers of Hearing Impaired

56345.1. (a) Beginning at age 14, or younger, if determined by the individualized education program team pursuant to paragraph (1) of subsection (b) of Section 300.347 of Title 34 of the Code of Federal Regulations, a statement of the transition service needs of the pupil shall be included in the pupil's individualized education program and shall be updated annually. The statement shall be included under applicable components of the pupil's individualized education program that focuses on the pupil's courses of study, such as participation in advanced-placement courses or a vocational education program.

- Statement of Transition Service Needs Beginning at Age 14 or Younger

(b) Beginning at age 16 or younger and annually thereafter, in accordance with Section 56462 and paragraph (30) of Section 1401 of Title 20 of the United States Code, a statement of needed transition services shall be included in the pupil's individualized education program, including whenever appropriate, a statement of interagency responsibilities or any needed linkages.

- Statement of Needed Transition Services Beginning at Age 16 or Younger

(c) The term "transition services" means a coordinated set of activities for an individual with exceptional needs that does the following:

- Definition of "Transition Services"

(1) Is designed within an outcome-oriented process, that promotes movement from school to postschool activities, including postsecondary education, vocational training, integrated employment, including supported employment, continuing and adult education, adult services, independent living, or community participation.

(2) Is based upon the individual pupil's needs, taking into account the pupil's preferences and interests.

(3) Includes instruction, related services, community experiences, the development of employment and other postschool adult living objectives, and, when appropriate, acquisition of daily living skills and functional vocational evaluation.

(d) If a participating agency, other than the local educational agency, fails to provide the transition services described in the

- Alternative Strategies to Meet Transition Service Needs

pupil's individualized education program in accordance with this section, the local educational agency shall reconvene the individualized education program team to identify alternative strategies to meet the transition service needs for the pupil set out in the program.

56346. (a) Informed parental consent shall be obtained before the initial provision of special education and related services to an individual with exceptional needs pursuant to clause (ii) of paragraph (1) of subsection (a) of Section 300.505 of Title 34 of the Code of Federal Regulations.

- Informed Parental Consent Before Initial Provision of Special Education and Related Services

(b) A pupil may not be required to participate in all or part of any special education program, unless the parent is first informed, in writing, of the facts that make participation in the program necessary or desirable, and of the contents of the individualized education program, and after this notice, consents, in writing, to all or part of the individualized education program. If the parent does not consent to all of the components of the individualized education program, those components of the program to which the parent has consented shall be implemented so as not to delay providing instruction and services to the pupil.

- Parent Written Consent for IEP Contents

- If Parent Does Not Consent

(c) If the local educational agency determines that the part of the proposed special education program to which the parent does not consent is necessary to provide a free and appropriate public education to the pupil, a due process hearing shall be initiated pursuant to Chapter 5 (commencing with Section 56500), unless a prehearing mediation conference is held. During the pendency of the due process hearing, the local educational agency may reconsider the proposed individualized education program, may choose to meet informally with the parent pursuant to subdivision (b) of Section 56502, or may hold a mediation conference pursuant to Section 56503. As an alternative to holding a due process hearing, the parties may hold a prehearing mediation conference pursuant to Section 56500.3 to resolve any issue or dispute. If a due process hearing is held, the hearing decision shall be the final administrative determination and shall be binding upon the parties. While a prehearing mediation conference or due process hearing is pending, the pupil shall remain in his or her current placement, unless the parent and the local educational agency agree otherwise.

- Due Process Hearing or Prehearing Mediation When Parent Does Not Consent

56365. (a) Services provided by nonpublic, nonsectarian schools, as defined pursuant to Section 56034, and nonpublic, nonsectarian agencies, as defined pursuant to Section 56035, shall be available. These services shall be provided pursuant to Section 56366, and in accordance with Section 300.401 of Title 34 of the Code of Federal Regulations, under contract with the district, special education local plan area, or county office to provide the

- Nonpublic, Nonsectarian School and Agency Services Shall Be Available

appropriate special educational facilities, special education, or designated instruction and services required by the individual with exceptional needs if no appropriate public education program is available.

(b) Pupils enrolled in nonpublic, nonsectarian schools and agencies under this section shall be deemed to be enrolled in public schools for all purposes of Chapter 4 (commencing with Section 41600) of Part 24 and Section 42238. The district, special education local plan area, or county office shall be eligible to receive allowances under Chapter 7.2 (commencing with Section 56836) for services that are provided to individuals with exceptional needs pursuant to the contract.

(c) If the state participates in the federal program of assistance for state-operated or state-supported programs for individuals with exceptional needs (P.L. 89-313, Sec. 6), pupils enrolled in nonpublic, nonsectarian schools shall be deemed to be enrolled in state-supported institutions for all purposes of that program and shall be eligible to receive allowances under Chapter 7.2 (commencing with Section 56836) for supplemental services provided to individuals with exceptional needs pursuant to a contract with a district, special education local plan area, or county office of education. In order to participate in the federal program, the state shall find that participation will not result in any additional expenditures from the General Fund.

(d) The district, special education local plan area, or county office shall pay to the nonpublic, nonsectarian school or agency the full amount of the tuition for individuals with exceptional needs that are enrolled in programs provided by the nonpublic, nonsectarian school pursuant to the contract.

(e) Before contracting with a nonpublic, nonsectarian school or agency outside of this state, the district, special education local plan area, or county office shall document its efforts to utilize public schools or to locate an appropriate nonpublic, nonsectarian school or agency program, or both, within the state.

(f) If a district, special education local plan area, or county office places a pupil with a nonpublic, nonsectarian school or agency outside of this state, the pupil's individualized education program team shall submit a report to the superintendent within 15 days of the placement decision. The report shall include information about the special education and related services provided by the out-of-state program placement and the costs of the special education and related services provided, and shall indicate the efforts of the local educational agency to locate an appropriate public school or nonpublic, nonsectarian school or agency, or a combination thereof, within the state. The superintendent shall submit a report to the State Board of Education on all placements

- No Appropriate Public Program Available

- Deemed to Be Enrolled in Public Schools

- Funding Eligibility

- Public Law 89-313 Funding

- Full Amount of Tuition

- Before Contracting Outside of State

- Reporting Out-of-State Placements

made outside of this state.

(g) If a school district, special education local plan area, or county office of education decides to place a pupil with a nonpublic, nonsectarian school or agency outside of this state, that local educational agency shall indicate the anticipated date for the return of the pupil to a public or nonpublic, nonsectarian school or agency placement, or a combination thereof, located in the state and shall document efforts during the previous placement year to return the pupil.

- Indicate Anticipated Date for Return of the Pupil

(h) In addition to meeting the requirements of Section 56366.1, a nonpublic, nonsectarian school or agency that operates a program outside of this state shall be certified or licensed by that state to provide, respectively, special education and related services and designated instruction and related services to pupils under the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.).

- Out-of-State School/Agency Shall Be Certified or Licensed

(i) A nonpublic, nonsectarian school or agency that is located outside of this state is eligible for certification pursuant to Section 56366.1 only if a pupil is enrolled in a program operated by that school or agency pursuant to the recommendation of an individualized education program team in California, and if that pupil's parents or guardians reside in California.

- Requirement for Out-of-State Certification

(j) In accordance with subsections (b) and (c) of Section 300.402 of Title 34 of the Code of Federal Regulations, the department shall disseminate copies of applicable standards to each nonpublic, nonsectarian school and nonpublic, nonsectarian agency to which a district, special education local plan area, or county office has referred or placed an individual with exceptional needs and shall provide an opportunity for those nonpublic, nonsectarian schools and nonpublic, nonsectarian agencies to participate in the development and revision of state standards that apply to those entities.

- Disseminate Copies of Applicable Standards to Each Nonpublic School/Agency

56381. (a) A reassessment of the pupil, based upon procedures specified in Article 2 (commencing with Section 56320) shall be conducted at least once every three years or more frequently, if conditions warrant a reassessment, or if the pupil's parent or teacher requests a reassessment and a new individualized education program to be developed.

- Reassessment

If the reassessment so indicates, a new individualized education program shall be developed.

(b) As part of any reassessment, the individualized education program team and other qualified professionals, as appropriate, shall do the following:

- Duties of the IEP Team and Other Qualified Professionals

(1) Review existing assessment data on the pupil, including assessments and information provided by the parents of the pupil, as specified in clause (i) of paragraph (1) of subsection (a) of

Section 300.533 of Title 34 of the Code of Federal Regulations, current classroom-based assessments and observations, and teacher and related services providers' observations.

(2) On the basis of the review conducted pursuant to paragraph (1), and input from the pupil's parents, identify what additional data, if any, is needed to determine:

(A) Whether the pupil continues to have a disability described in paragraph (3) of Section 1401 of Title 20 of the United States Code.

(B) The present levels of performance and educational needs of the pupil.

(C) Whether the pupil continues to need special education and related services.

(D) Whether any additions or modifications to the special education and related services are needed to enable the pupil to meet the measurable annual goals set out in the individualized education program of the pupil and to participate, as appropriate, in the general curriculum.

(c) The local educational agency shall administer tests and other assessment materials needed to produce the data identified by the individualized education program team.

- Administer Tests and Other Assessment Materials As Needed

(d) If the individualized education program team and other qualified professionals, as appropriate, determine that no additional data is needed to determine whether the pupil continues to be an individual with exceptional needs, the local educational agency shall notify the pupil's parents of that determination and the reasons for it, and the right of the parents to request an assessment to determine whether the pupil continues to be an individual with exceptional needs. The local educational agency is not required to conduct an assessment, unless requested by the pupil's parents.

- Notification of Pupil's Parents

(e) A local educational agency shall assess an individual with exceptional needs in accordance with this section and procedures specified in Article 2 (commencing with Section 56320), as provided in paragraph (2) of subsection (c) of Section 300.534 of Title 34 of the Code of Federal Regulations.

- Assessment Procedures to Be Followed

(f) A reassessment may not be conducted, unless the written consent of the parent is obtained prior to reassessment, except pursuant to subdivision (e) of Section 56506. Pursuant to paragraphs (1) and (2) of subsection (c) of Section 300.505 of Title 34 of the Code of Federal Regulations, informed parental consent need not be obtained for the reassessment of an individual with exceptional needs if the local educational agency can demonstrate that it has taken reasonable measures to obtain that consent and the child's parent has failed to respond. To meet the reasonable measure requirements of this subdivision, the local

- Need for Written Consent of Parent for Reassessment

- Failure of Parent to Respond to Request for Reassessment

educational agency shall use procedures consistent with those set forth in subsection (d) of Section 300.345 of Title 34 of the Code of Federal Regulations.

(g) The individualized education program team and other qualified professionals referenced in subdivision (b) may conduct the review without a meeting, as provided in subsection (b) of Section 300.533 of Title 34 of the Code of Federal Regulations.

(h) Before determining that the individual is no longer an individual with exceptional needs, a local educational agency shall assess the individual in accordance with Section 56320 and this section, as appropriate, and Sections 300.532 and 300.533 of Title 34 of the Code of Federal Regulations, pursuant to paragraph (1) of subsection (c) of Section 300.534 of Title 34 of the Code of Federal Regulations.

56500.3. (a) It is the intent of the Legislature that parties to special education disputes be encouraged to seek resolution through mediation prior to filing a request for a due process hearing. It is also the intent of the Legislature that these voluntary prehearing request mediation conferences be an informal process conducted in a nonadversarial atmosphere to resolve issues relating to the identification, assessment, or educational placement of the child, or the provision of a free appropriate public education to the child, to the satisfaction of both parties. Therefore, attorneys or other independent contractors used to provide legal advocacy services may not attend or otherwise participate in the prehearing request mediation conferences.

(b) This part does not preclude the parent or the public educational agency from being accompanied and advised by nonattorney representatives in the mediation conferences and consulting with an attorney prior to or following a mediation conference. For purposes of this section, "attorney" means an active, practicing member of the State Bar of California or another independent contractor used to provide legal advocacy services, but does not mean a parent of the pupil who is also an attorney.

(c) Requesting or participating in a mediation conference is not a prerequisite to requesting a due process hearing.

(d) All requests for a mediation conference shall be filed with the superintendent. The party initiating a mediation conference by filing a written request with the superintendent shall provide the other party to the mediation with a copy of the request at the same time the request is filed with the superintendent. The mediation conference shall be conducted by a person knowledgeable in the process of reconciling differences in a nonadversarial manner and under contract with the department pursuant to Section 56504.5. The mediator shall be

- Review May Be Conducted Without a Meeting

- Prior to Determining That the Individual Is No Longer An Individual with Exceptional Needs

- Prehearing Mediation Conference

- Mediation Conference Conducted in Nonadversarial Atmosphere

- Nonattorney Representative

- Not a Prerequisite to Hearing

- Requests for Mediation Conference

- Mediator

knowledgeable in the laws and regulations governing special education.

(e) The prehearing mediation conference shall be scheduled within 15 days of receipt by the superintendent of the request for mediation. The mediation conference shall be completed within 30 days after receipt of the request for mediation unless both parties to the prehearing mediation conference agree to extend the time for completing the mediation. Pursuant to paragraph (3) of subsection (b) of Section 300.506 of Title 34 of the Code of Federal Regulations, and to encourage the use of mediation, the state shall bear the cost of the mediation process, including any meetings described in subsection (d) of Section 300.506 of Title 34 of the Code of Federal Regulations. The costs of mediation shall be included in the contract described in Section 56504.5.

(f) Based upon the mediation conference, the district superintendent, the county superintendent, or the director of the public educational agency, or his or her designee, may resolve the issue or issues. However, this resolution may not conflict with state or federal law and shall be to the satisfaction of both parties. A copy of the written resolution shall be mailed to each party within 10 days following the mediation conference.

(g) If the mediation conference fails to resolve the issues to the satisfaction of all parties, the party who requested the mediation conference has the option of filing for a state-level hearing pursuant to Section 56505. The mediator may assist the parties in specifying any unresolved issues to be included in the hearing request.

(h) Any mediation conference held pursuant to this section shall be scheduled in a timely manner and shall be held at a time and place reasonably convenient to the parties to the dispute in accordance with paragraph (4) of subsection (b) of Section 300.506 of Title 34 of the Code of Federal Regulations.

(i) The mediation conference shall be conducted in accordance with regulations adopted by the board.

(j) Notwithstanding any procedure set forth in this chapter, a public educational agency and a parent may, if the party initiating the mediation conference so chooses, meet informally to resolve any issue or issues to the satisfaction of both parties prior to the mediation conference.

(k) The procedures and rights contained in this section shall be included in the notice of parent rights attached to the pupil's assessment plan pursuant to Section 56321.

56500.4. Pursuant to paragraphs (3) and (4) of subsection (b) of Section 1415 of Title 20 of the United States Code, and in accordance with Section 300.503 of Title 34 of the Code of Federal Regulations, written prior notice shall be given by the

- Scheduled Within 15 Days

- Resolution of Issues

- Failure to Resolve Issues

- Time and Place

- State Board of Education
Regulations

- Meeting Informally to Resolve
Issues

- Notice of Parent Rights

- Written Prior Notice by the Public
Agency

public agency to the parents or guardians of an individual with exceptional needs, or to the parents or guardians of a child upon initial referral for assessment.

56500.6. Due process and state complaint procedures for children enrolled in private schools by their parents pursuant to Sections 56170 to 56174.5, inclusive, shall be in accordance with Section 300.457 of Title 34 of the Code of Federal Regulations.

56502. (a) All requests for a due process hearing shall be filed with the superintendent in accordance with paragraphs (1) and (2) of subsection (c) of Section 300.507 of Title 34 of the Code of Federal Regulations.

(b) The superintendent shall develop a model form to assist parents and guardians in filing a request for due process that is in accordance with paragraph (3) of subsection (c) of Section 300.507 of Title 34 of the Code of Federal Regulations.

(c) The party initiating a due process hearing by filing a written request with the superintendent shall provide the other party to the hearing with a copy of the request at the same time as the request is filed with the superintendent.

(d) The superintendent shall take steps to ensure that within 45 days after receipt of the written hearing request the hearing is immediately commenced and completed, including, any mediation requested at any point during the hearing process pursuant to paragraph (2) of subdivision (b) of Section 56501, and a final administrative decision is rendered, unless a continuance has been granted pursuant to Section 56505.

(e) Notwithstanding any procedure set forth in this chapter, a public education agency and a parent or guardian may, if the party initiating the hearing so chooses, meet informally to resolve any issue or issues relating to the identification, assessment, or education and placement of the child, or the provision of a free appropriate public education to the child, to the satisfaction of both parties prior to the hearing. The informal meeting shall be conducted by the district superintendent, county superintendent, or director of the public education agency or his or her designee. Any designee appointed pursuant to this subdivision shall have the authority to resolve the issue or issues.

(f) Upon receipt by the superintendent of a written request by the parent or guardian or public education agency, the superintendent or his or her designee or designees shall immediately notify, in writing, all parties of the request for the hearing and the scheduled date for the hearing. The notice shall advise all parties of all their rights relating to procedural safeguards. The superintendent or his or her designee shall provide both parties with a list of persons and organizations within the geographical area that can provide free or reduced cost representation or other assistance in preparing

- Due Process and State Complaint Procedures for Children Enrolled in Private Schools by Their Parents

- Written Request for Due Process Hearing

- Model Form

- Provide Other Party to the Hearing with a Copy of the Hearing Request

- Forty-five Days to Complete Hearing

- Informal Meeting to Resolve Issues

- Notification of All Parties

for the due process hearing. This list shall include a brief description of the requirement to qualify for the services. The superintendent or his or her designee shall have complete discretion in determining which individuals or groups shall be included on the list.

56504.5. The department shall contract with a single, nonprofit organization or entity to conduct mediation conferences and due process hearings in accordance with Sections 300.506 and 300.508 of Title 34 of the Code of Federal Regulations.

56505. (a) The state hearing shall be conducted in accordance with regulations adopted by the board.

(b) The hearing shall be held at a time and place reasonably convenient to the parent or guardian and the pupil.

(c) The hearing shall be conducted by a person knowledgeable in the laws and regulations governing special education and administrative hearings pursuant to Section 56504.5, and who has satisfactorily completed training pursuant to this subdivision. The superintendent shall establish standards for the training of hearing officers, the degree of specialization of the hearing officers, and the quality control mechanisms to be used to ensure that the hearings are fair and the decisions are accurate. A due process hearing may not be conducted by any individual listed in subsection (a) of Section 300.508 of Title 34 of the Code of Federal Regulations. Pursuant to subsection (b) of Section 300.508 of Title 34 of the Code of Federal Regulations, a person who is qualified to conduct a hearing is not an employee of the agency solely because he or she is paid by the agency to serve as a hearing officer. The hearing officer shall encourage the parties to a hearing to consider the option of mediation as an alternative to a hearing.

(d) Pursuant to subsection (a) of Section 300.514 of Title 34 of the Code of Federal Regulations, during the pendency of the hearing proceedings, including the actual state level hearing, or judicial proceeding regarding a due process hearing, the pupil shall remain in his or her present placement, except as provided in Section 300.526 of Title 34 of the Code of Federal Regulations, unless the public agency and the parent or guardian agree otherwise. A pupil applying for initial admission to a public school shall, with the consent of his or her parent or guardian, be placed in the public school program until all proceedings have been completed. As provided in subsection (c) of Section 300.514 of Title 34 of the Code of Federal Regulations, if the decision of a hearing officer in a due process hearing or a state review official in an administrative appeal agrees with the pupil's parent or guardian that a change of placement is appropriate, that placement shall be treated as an agreement between the state or

- Contract for Mediators and Hearing Officers

- State Hearing

- Time and Place

- Conducted by Knowledgeable Person

- Pupil Placement During Hearing

local agency and the parent or guardian.

(e) Any party to the hearing held pursuant to this section shall be afforded the following rights consistent with state and federal statutes and regulations:

- Additional Hearing Rights

(1) The right to be accompanied and advised by counsel and by individuals with special knowledge or training relating to the problems of individuals with exceptional needs.

(2) The right to present evidence, written arguments, and oral arguments.

(3) The right to confront, cross-examine, and compel the attendance of witnesses.

(4) The right to a written, or, at the option of the parents or guardians, electronic verbatim record of the hearing.

(5) The right to written, or, at the option of the parent or guardian, electronic findings of fact and decisions. The record of the hearing and the findings of fact and decisions shall be provided at no cost to parents or guardians in accordance with paragraph (2) of subsection (c) of Section 300.509 of Title 34 of the Code of Federal Regulations. The findings and decisions shall be made available to the public after any personally identifiable information has been deleted consistent with the confidentiality requirements of subsection (c) of Section 1417 of Title 20 of the United States Code and shall also be transmitted to the Advisory Commission on Special Education pursuant to paragraph (4) of subsection (h) of Section 1415 of Title 20 of the United States Code.

(6) The right to be informed by the other parties to the hearing, at least 10 days prior to the hearing, as to what those parties believe are the issues to be decided at the hearing and their proposed resolution of those issues. Upon the request of a parent who is not represented by an attorney, the agency responsible for conducting hearings shall provide a mediator to assist the parent in identifying the issues and the proposed resolution of the issues.

(7) The right to receive from other parties to the hearing, at least five business days prior to the hearing, a copy of all documents and a list of all witnesses and their general area of testimony that the parties intend to present at the hearing. Included in the material to be disclosed to all parties at least five business days prior to a hearing shall be all assessments completed by that date and recommendations based on the assessments that the parties intend to use at the hearing.

(8) The right, pursuant to paragraph (3) of subsection (a) of Section 300.509 of Title 34 of the Code of Federal Regulations, to prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five business days before the hearing.

(f) The hearing conducted pursuant to this section shall be completed and a written, reasoned decision mailed to all parties to the hearing within 45 days from the receipt by the superintendent of the request for a hearing. Either party to the hearing may request the hearing officer to grant an extension. The extension shall be granted upon a showing of good cause. Any extension shall extend the time for rendering a final administrative decision for a period only equal to the length of the extension.

- Written Decision Within 45 Days

(g) The hearing conducted pursuant to this section shall be the final administrative determination and binding on all parties.

- Extension

(h) In decisions relating to the placement of individuals with exceptional needs, the person conducting the state hearing shall consider cost, in addition to all other factors that are considered.

- Final Administrative Determination

- Hearing Officer Considers Cost

(i) This chapter does not preclude a party aggrieved by the findings and decisions in a hearing under this section from exercising the right to appeal the decision to a state court of competent jurisdiction. An aggrieved party may also exercise the right to bring a civil action in a district court of the United States without regard to the amount in controversy, pursuant to Section 300.512 of Title 34 of the Code of Federal Regulations. An appeal shall be made within 90 days of receipt of the hearing decision. During the pendency of any administrative or judicial proceeding conducted pursuant to Chapter 5 (commencing with Section 56500), unless the public education agency and the parents of the child agree otherwise, the child involved in the hearing shall remain in his or her present educational placement. Any action brought under this subdivision shall adhere to the provisions of subsection (b) of Section 300.512 of Title 34 of the Code of Federal Regulations.

- Right to Appeal to Court

(j) Any request for a due process hearing arising under subdivision (a) of Section 56501 shall be filed within three years from the date the party initiating the request knew or had reason to know of the facts underlying the basis for the request.

- Time Limitation for Requesting a Due Process Hearing

(k) Pursuant to subsection (c) of Section 300.508 of Title 34 of the Code of Federal Regulations, each public education agency shall keep a list of the persons who serve as due process hearing officers, in accordance with Section 56504.5, and the list shall include a statement of the qualifications of each of those persons. The list of hearing officers shall be provided to the public education agencies by the organization or entity under contract with the department to conduct due process hearings.

- List of Hearing Officers

56505.1. The hearing officer may do any of the following during the hearing:

- Hearing Officer Rights

(a) Question a witness on the record prior to any of the parties doing so.

- Question Witness

(b) With the consent of both parties to the hearing, request that

- Request That Conflicting

conflicting experts discuss an issue or issues with each other while on the record.

Experts Discuss Issues

(c) Visit the proposed placement site or sites when the physical attributes of the site or sites at issue.

- Visit Proposed Placement Site

(d) Call a witness to testify at the hearing if all parties to the hearing consent to the witness giving testimony or the hearing is continued for at least five days after the witness is identified and before the witness testifies.

- Call a Witness

(e) Order that an impartial assessment, including an independent educational assessment, of the pupil be conducted for purposes of the hearing and continue the hearing until the assessment has been completed. The cost of any assessment ordered under this subdivision shall be at public expense pursuant to subsection (d) of Section 300.502 of Title 34 of the Code of Federal Regulations and included in the contract between the department and the organization or entity conducting the hearing.

- Order an Impartial Assessment

(f) Bar introduction of any documents or the testimony of any witnesses not disclosed to the hearing officer at least five business days prior to the hearing and bar introduction of any documents or the testimony of any witnesses at the hearing without the consent of the other party not disclosed to the parties at least five business days prior to the hearing pursuant to paragraph (7) of subdivision (e) of Section 56505.

- Bar Introduction of Documents or Testimony

(g) In decisions relating to the provision of related services by other public agencies, the hearing officer may call as witnesses independent medical specialists qualified to present evidence in the area of the pupil's medical disability. The cost for any witness called to testify under this subdivision shall be included in the contract between the department and the organization or entity conducting the hearing.

- Call as Witnesses Independent Medical Specialists

(h) Set a reasonable limit on the length of the hearing after consideration of all of the following:

- Set a Reasonable Limit on the Length of the Hearing

(1) The issues to be heard.

(2) The complexity of the facts to be proven.

(3) The ability of the parties and their representatives, if any, to present their respective cases.

(4) The estimate of the parties as to the time needed to present their respective cases.

56506. In addition to the due process hearing rights enumerated in subdivision (b) of Section 56501, the following due process rights extend to the pupil and the parent:

- Additional Due Process Rights

(a) Written notice to the parent of his or her rights in language easily understood by the general public and in the native language of the parent, as defined in Section 300.19 of Title 34 of the Code of Federal Regulations, or other mode of communication used by the parent, unless to do so is clearly not feasible. The written

- Written Notice to Parent of Rights

notice of rights shall include, but not be limited to, those prescribed by Section 56341.

(b) The right to initiate a referral of a child for special education services pursuant to Section 56303.

(c) The right to obtain an independent educational assessment pursuant to subdivision (b) or (c) of Section 56329.

(d) The right to participate in the development of the individualized education program and to be informed of the availability under state and federal law of free appropriate public education and of all available alternative programs, both public and nonpublic.

(e) Written parental consent pursuant to Section 56321 shall be obtained before any assessment of the pupil is conducted, unless the public education agency prevails in a due process hearing relating to the assessment. In accordance with subsection (c) of Section 300.505 of Title 34 of the Code of Federal Regulations, informed parental consent need not be obtained in the case of a reassessment of the pupil if the local educational agency can demonstrate that it has taken reasonable measures to obtain consent and the pupil's parent has failed to respond.

(f) Written parental consent pursuant to Section 56321 shall be obtained before the pupil is placed in a special education program.

- Right to Initiate a Referral

- Right to an Independent Educational Assessment

- Right to Participate in IEP Development and to Be Informed of a Free Appropriate Public Education and Alternative Programs

- Written Parental Consent Before Any Assessment

- Written Parental Consent Before Pupil Is Placed in a Special Education Program

CHAPTER 5.1. CONFIDENTIALITY OF INFORMATION ABOUT INDIVIDUALS WITH EXCEPTIONAL NEEDS

56515. (a) In addition to the provisions of Chapter 6.5 (commencing with Section 49060) of Part 27, the confidentiality of personally identifiable information about individuals with exceptional needs shall be governed and protected in accordance with the provisions of Sections 300.560 to 300.577, inclusive, of Title 34 of the Code of Federal Regulations, including, notice to parents, access rights, records on more than one child, lists and types of locations of information, parental consent regarding the disclosure of personally identifiable information, fees for copies of records, amendment of records at parent's request, opportunity for a hearing, safeguards, destruction of information, children's privacy rights, enforcement, and disciplinary information about an individual with exceptional needs.

(b) Pursuant to paragraph (3) of subsection (b) of Section 300.500 of Title 34 of the Code of Federal Regulations, "personally identifiable," as used in this part, includes all of the following information:

(1) The name of the child, the child's parent, or other family member.

(2) The address of the child.

- Personally Identifiable Information Governed and Protected Under Federal Regulations

- Definition of "Personally Identifiable"

(3) A personal identifier, including, but not limited to, the child's social security number, a pupil number, a list of personal characteristics, or other information that would make it possible to identify the child with reasonable certainty.

56863. The state hospitals, as part of the notification to parents of pupils of their rights pursuant to the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), the Rehabilitation Act of 1973 (29 U.S.C. Sec. 701 et seq.), and this part and implementing regulations, shall notify parents of the right that their child can be considered for education programs other than on state hospital grounds.

For the purposes of this section, the term "parent of pupil" shall mean a parent, a legal guardian, a conservator, a person acting as a parent of a child, or a surrogate parent appointed pursuant to Section 300.515 of Title 34 of the Code of Federal Regulations.

Information and records concerning state hospital patients in the possession of the Superintendent of Public Instruction shall be treated as confidential under Section 5328 of the Welfare and Institutions Code and the Federal Privacy Act of 1974, Public Law 93-579.

- Notification of Parent of Pupil

- Definition of "Parent of Pupil"

- Confidentiality of Records